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VIA MESSENGER AND EMAIL

Tukwila Planning Commission
City of Tukwila
Department of Community Development
6300 Southcenter Blvd., #100
Tukwila, WA 98188

Re: Comments on the Tukwila Urban Center Subarea Plan

Dear Planning Commission Members:

We represent Innkeepers USA Trust, the owner through its subsidiary, Grand Prix Tukwila LLC, of the Residence Inn hotel located at 16201 West Valley Highway in the City of Tukwila. We are writing to provide comments on the proposed Tukwila Urban Center Subarea Plan ("TUC Plan") under consideration by the Planning Commission.

The Tukwila Residence Inn by Marriott is located on an approximately 8.15-acre property along the east side of the Green River immediately north of Strander Boulevard. It consists of 144 newly renovated extended stay suites in 18 two-story buildings along the narrow riverfront property. It is the only extended stay hotel in the City of Tukwila.

Under the proposed TUC Plan, the Residence Inn property would be designated TOD River under the use standards, General Urban, Urban River Edge and TUC Boulevard Edge under the scale standards, and Urban Waterfront Corridor, Urban Corridor, Commercial Corridor, and TUC Boulevard Corridor under the form standards. Together, these designations and their implementing regulations as proposed in the TUC Plan constitute a substantial downzone of the property. If adopted, they would render the current use of the Residence Inn property nonconforming and severely constrain any future use, development or redevelopment of the property.

Use Regulations

The current Tukwila Urban Center zoning for the Residence Inn property permits a wide variety of high intensity regional uses that include commercial services, offices, light industry, warehousing and retail uses. TMC 18.28.020. Under the TOD River designation in the TUC

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Plan, most of these uses are eliminated in favor of a limited number of retail, office, lodging and residential uses. TUC Plan 18.28.011. While the use limitations in the TOD River use zone are not objectionable *per se*, when combined with the scale and form regulations that will apply to the property, very little commercially viable development or redevelopment is possible on the Residence Inn property. For example, the existing use on the Residence Inn property, an extended stay hotel, is a permitted use in the TOD River zone. However, the scale and form regulations, including new setback and height restrictions, would make it impossible to come close to replicating the current hotel use of the property.

Scale Regulations

Under the proposed TUC Plan, the scale of all development is governed by the standards and regulations for the applicable scale zone. TUC Plan 18.28.012. The Residence Inn property is proposed to be in three such zones, the General Urban, Urban River Edge, and TUC Boulevard Edge scale zones. TUC Plan 18.28.012. While the General Urban scale standards would permit a maximum building height of 8 floors and 95 feet generally, and the TUC Boulevard Edge a maximum height of 4 floors and 54 feet within 65 feet of Strander Boulevard, such heights are not achievable because of the Urban River Edge designation for the property.¹ This latter designation restricts building height within 125 feet of the Ordinary High Water Mark (OHWM) to 15 feet maximum, and building height between 125 and 200 feet of the OHWM to that provided in the Shoreline Master Program Section 9.3 for height standards, which as currently proposed imposes a 45-foot limit. Because the Residence Inn property consists of a narrow strip of land along the Green River, nearly the entire developable portion of the property would be subject to a 15-foot height limit, thereby effectively eliminating the current use of the property as an extended stay hotel and severely constraining any commercially or economically viable use of the property for the limited number of uses allowed for it under the TOC River designation.

Form Regulations

A portion of the Residence Inn property along the Green River is designated an Urban Waterfront Corridor. TUC Plan 18.28.013. Portions of the property along the north and northeast boundaries are designated Urban Corridor and Commercial Corridor, respectively, and TUC Boulevard Corridor along the south property boundary. *Id.* The form regulations for these corridor types are myriad and unduly onerous. Of particular concern to Innkeepers are the open space, public access, and landscaping requirements. TUC Plan 18.28.042.4, 18.24.060-.082. Each of these corridor regulations would require dedication and construction of substantial pedestrian walkways and improvements, landscaping, decorative street lighting, and even street furnishings such as benches along most of the property boundaries. For the Urban Waterfront Corridor along the Green River, for example, a 25-foot pedestrian walkway would be required within 125 feet of the OHWM. TUC Plan 18.28.042(D).

¹ Under current code requirements, the maximum height for development of the property is 115 feet. TMC 18.28.080.

These requirements are not tailored to the intensity of development; nor are they reasonably necessary to mitigate the impacts of any use, development or redevelopment of the property. Thus, as proposed, they constitute unlawful and unconstitutional exactions because they would require property owners to provide public access and install other public benefit improvements that are not reasonably related or roughly proportional to the impacts of the use and development of the properties subject to these provisions. *See, e.g., Isla Verde Int'l Holdings, Inc. v. City of Camas*, 146 Wn.2d 740, 761, 49 P.3d 867 (2002) (“development conditions must be tied to a *specific, identified impact* of a development on the community.”); RCW 82.02.020 (Exaction is unlawful tax or fee unless City meets burden of establishing that development conditions are reasonably necessary as a direct result of the proposed development); *Nollan v. Cal. Coastal Comm’n*, 483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 677 (1987) (City must show “essential nexus” between required condition and impact of development); *Dolan v. City of Tigard*, 512 U.S. 374, 386-94, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994) (City must make individualized determination the required condition is “roughly proportional” to the impacts of the proposed development). Further, they purport to impose development conditions to “relieve a preexisting deficiency,” which is clearly unlawful. *Benchmark Land Co. v. City of Battleground*, 146 Wn.2d 685, 695, 49 P.3d 860 (2002).

Consistency with Proposed Shoreline Master Program Regulations

Because a substantial portion of the Residence Inn property is located within 200 feet of the Green River, any use, development or redevelopment of the property will be subject both to the Tukwila Shoreline Master Program (SMP) and the TUC Plan. Yet little effort has been made to ensure consistency between these regulations, including the amendments to the SMP currently under consideration by the City Council. As a result, the Residence Inn property will be subject to inconsistent landscaping requirements, public access and open space requirements, buffers and setbacks, height restrictions, and nonconforming use provisions.

Applicability and Non-Conforming Uses

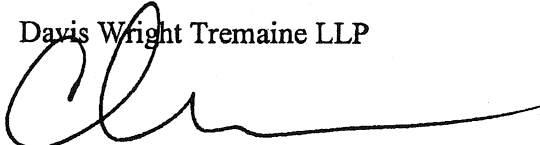
As proposed, the TUC Plan requires that its new development standards be met for relatively minor alterations and redevelopment of the property, including exterior alterations within a 2-year period that meet or exceed 5% of the structures assessed value, tenant improvements, changes or intensification of use, and site modifications. TUC Plan 18.28.003. For existing improvements like the Residence Inn property that will become nonconforming once the TUC Plan is adopted, it will discourage property owners and businesses from maintaining or upgrading existing improvements. Further, because of the unduly onerous and overly restrictive development regulations in the TUC Plan, it will not allow property owners or businesses to develop or redevelop their properties to a commercially or economically viable use. In the case of the Residence Inn, the new development regulations in the TUC Plan will essentially preclude development or redevelopment of the same hotel use currently on the site, even though it is a permitted use under the TUC Plan.

While it is laudable that the City intends through adoption of the TUC Plan to establish "a planning and design framework to further the vitality, functionality, and sustainability of the Tukwila Urban Center (TUC)/Southcenter in accordance with the forces of the free market and the community's vision for its primary commercial district," TUC Plan, Book 1, p. 1, to accomplish these purposes, it must do so in a way that makes future development and redevelopment of the properties subject to this planning and design framework commercially and economically viable. As currently proposed, the TUC fails to do so. For a property like the Residence Inn property, it both discourages maintenance and upgrades of the existing, permitted uses on the site as well as any future development or redevelopment of the property consistent with TUC Plan policies and regulations.

Thank you for your consideration of these comments.

Respectfully submitted,

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cc: Nora Gierloff, Deputy Director, Dept. of Community Development
Lynn Miranda, Senior Planner
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